

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

THE NEW YORK TIMES COMPANY and
SHEILA KAPLAN,

Plaintiffs,

v.

U.S. FOOD AND DRUG ADMINISTRATION,

Defendant.

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 6/21/2021

19 Civ. 4740 (VEC)

**STIPULATION AND ORDER
OF DISMISSAL**

WHEREAS, on or about May 22, 2019, Plaintiffs Sheila Kaplan and The New York Times Company filed this suit pursuant to the Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”), seeking the release of certain records by defendant U.S. Food and Drug Administration (“FDA”) in connection with FOIA requests submitted by Plaintiffs to FDA on or about June 25, 2018, and October 18, 2018 (the “FOIA Requests”);

WHEREAS, FDA produced records responsive to one or both of the FOIA Requests on July 31, 2019, September 3, 2019, October 1, 2019, October 16, 2019, and October 31, 2019;

WHEREAS, on March 29, 2021, the Court issued an opinion and order, denying both of the parties’ cross-motions for summary judgment, without prejudice, Dkt. No. 38;

WHEREAS, on June 2, 2021, FDA produced additional responsive records to Plaintiffs;

WHEREAS, the parties have agreed that, absent any order to the contrary by the Court, by June 28, 2021, FDA will produce to Plaintiffs the records that are associated with the following Bates ranges, with partial withholdings and redactions to be applied by FDA

pursuant to FOIA's Exemptions 4 and 6: JUULLabs_00033258-JUULLabs_00033312; JUULLabs_00033313-JUULLabs_00033335; JUULLabs_00033336-JUULLabs_00033365; JUULLabs_00040098-JUULLabs_00040104; JUULLabs_00044506-JUULLabs_00044530.

WHEREAS, IT IS HEREBY STIPULATED, AGREED, and ORDERED as follows:

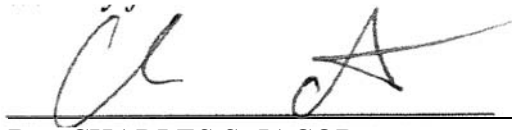
1. The productions set forth above fully resolve any and all claims that Plaintiffs now have or may hereinafter acquire against FDA or the United States of America (the "United States"), or any department, agency, officer, or employee of Defendant and/or the United States, related to or arising out of the FOIA Requests, except for any claims for attorneys' fees and costs by Plaintiffs under 5 U.S.C. § 552(a)(4)(E).

2. Plaintiffs reserve the right to file a claim for fees and costs pursuant to 5 U.S.C. § 552(a)(4)(E), and Defendant reserves its right to oppose any such application.

3. Pursuant to Rule 41(a)(2) of the Federal Rules of Civil Procedure, this action is hereby dismissed with prejudice; provided, however, that the Court shall retain jurisdiction to adjudicate a request by Plaintiffs for attorneys' fees and costs under 5 U.S.C. § 552(a)(4)(E).

Dated: New York, NY
June 21, 2021

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THE NEW YORK TIMES COMPANY and
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Counsel for Plaintiffs

SO ORDERED:



HONORABLE VALERIE E. CAPRONI
UNITED STATES DISTRICT JUDGE

6/21/2021

The Clerk of Court is respectfully
directed to terminate all open
motions and to close this case.